
(2007) 05 PAT CK 0102
In the Patna High Court
Case No : CWJC No"s. 1387 of 2007

Rajesh Roushan and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 21-05-2007

Acts Referred:

Citation : (2008) 3 PLJR 688

Hon'ble Judges : Shailesh Kumar Sinha, J

Bench : Single Bench

Advocate : Narendra Prasad, Rajendra Pd. Singh, Ajay Kumar Singh, Mushtaque Alam, Ajay Kumar No. 1, Rajeev Kumar Singh, Alok Kumar Singh, Mritunjay Kumar and Sunil Kumar Singh, for the Appellant; Lalit Kishore, R.K. Choubey, Nilu Agrawal, Rajesh Kumar No. 1, Durga Nand Jha and Arbind Ujjwal, for the Respondent

Judgement

S.K. Sinha, J.—In these group of four writ applications except C.W.J.C. No. 1975 of 2007, the petitioners have assailed the order of cancellation of their respective appointments on the post of Assistant teachers (trained) in different Primary/ Secondary/Middle Schools pursuant to the appointments made under Bihar Primary Teachers Employment and Service Conditions Rules, 2006 (hereinafter referred to as the "Statutory Rule") issued vide Notification dated 1.7.2006 (annexure-10) to the writ application) on the ground that the qualification of possessing the Teachers Training certificate from a recognized institution, as required under sub-rule (3) of Rule 8 of the aforesaid Statutory Rules. The facts not in dispute are that all the petitioners have obtained the Basic Teachers Training Certificate from an institution known as "Gandhi Hindi Vidhyapith, Prayag, U.P.", prior to coming into force of the National Council for Teachers Education (NCTE) Act, 1993, an enactment mandating the necessity of recognition and the procedure thereof for the institutes imparting and granting certificate for teachers training, which came into effect on 17.8.1995. It is also not in dispute that after coming into force of the provisions of the aforesaid Statutory Rule all the teachers training institutes are required to get recognized

by the said National Council for Teachers Education (NCTE) failing which such institutes shall cease to be a recognised institution.

2. The controversy between the parties is confined to the issue that in terms of the proviso to sub-rule (3) of Rule 8 of the aforementioned Statutory Rule as to whether the candidates are required to obtain the certificate of teachers training from any recognized institution in the country or from a particular Government/ Board/ University or any particular competent body.

3. The learned counsels for the petitioners have a common submission to the effect that in terms of the aforementioned Statutory Rule that all the writ petitioners fulfils the essential requirement of having the certificate of teachers training course of two years from Gandhi Hindi Vidhyapith, Prayag, U.P., which is duly recognized institute by the Central Government, as would be evident on perusal of the letter dated 18th of December, 1984 written by the Government of India in the Ministry of Education and Culture, Department of Education and addressed to the Registrar, Gandhi Hindi Vidhyapith Prayag U.P. vide Annexure-4 to the writ application. The said letter is in reply to a query made by the Gandhi Hindi Vidhyapith, Prayag, U.P. in connection of the recognition of Baby Teachers Certificate Course is equivalent to the Basic Teachers Training.

4. The Govt. of India clarified to the effect that the Baby Teachers Certificate Course run by the Gandhi Hindi Vidhyapith, Prayag U.P. be recognised for employment to the post and services under the Central Government.

5. Learned counsels appearing for the petitioners have also drawn the attention of the Court to a list of institutes recognised by Himanchal Pradesh University vide PU (ACD) 19th November, 1980, as contained in Annexure-2 to the C.W.J.C. No. 1923 of 2007, in which the name of the Gandhi Hindi Vidhyapith, Prayag, U.P., from where the petitioners have obtained the teachers training certificate, is included in the list alongwith various other Universities as well as the order dated 8.8.1979 passed by this Court in C.W.J.C. No. 2165 of 1979, as contained in Annexure-4 to the C.W.J.C. No. 1923 of 2007, for direction that the State of Bihar be directed to take a decision granting permission to establish teachers training institute in the State as also to decide its minority character as well as to take decision regarding affiliation and recognition of this institute.

6. The said writ application was disposed of by a Bench of this Court on the assurance of the learned Government Pleader No. 2 that all such decisions would be taken within the next six weeks and the writ application was disposed of by the aforesaid order dated 8.8.1979 on the basis of the undertaking given by the learned counsel for the parties. However, no copy of the decision if any taken pursuant to the order of this Court, has been brought on record by either of the parties in the present writ application.

7. A counter affidavit as well as a supplementary counter affidavit have been filed in C.W.J.C. No. 1387 of 2007. The stand taken by the State during the submission advanced by the learned Additional Advocate General No. III is to the

effect that even though under the aforementioned Statutory Rule there is no specific mention about the recognised institutions whose teachers training certificates shall be acceptable for the purpose of employment, as required under proviso to sub-rule (3) of Rule 8 of the aforesaid Statutory Rules. However, the candidates seeking employment must possess the teachers training certificate from a recognised institution either by the Government of Bihar or by the concerned State Government where the teachers training institute is situated. It is further submitted that the writ petitioners having obtained the teachers training certificates from Gandhi Hindi Vidyapith, Prayag, U.P. the said institute must be recognised from the Government of U.P. Relying on letter dated 4th of September, 2006 issued by the Director of State Educational Research and Training Institute, Lucknow submitted that prior L.T. training programme by the State of U.P. as contained in the list vide Annexure-II to Annexure B to the Counter Affidavit of respondent no. 6 in C.W.J.C. No. 1927 of 2007 did not contain the name of the Gandhi Hindi Vidhyapith, Prayag, U.P. However, it could not be made clear as to what is L.T. Training Programme.

8. Notwithstanding the rival contentions, the writ petitioners except in C.W.J.C. No. 1975 of 2007, have seriously and vehemently contended that the petitioners having selected after going through the procedure laid down in terms of the advertisement issued under the aforesaid Statutory Rule were appointed as Assistant Teachers followed by their joining into the respective schools where they were posted, their appointment could not be cancelled on the alleged ground that the institute from where they obtained the teachers training certificate is not a recognised institute mbreso without giving any prior opportunity of hearing/show cause entitling them to place their respective cases and satisfy the authority concerned that the institute in question is a recognised institute for the purpose of their employment for having the essential qualification prescribed in terms of proviso to sub-rule (3) of Rule 8 of the Statutory Rule.

9. The fact of not giving any prior show cause notice calling for any reply/explanation from the writ petitioners before cancelling their appointment consequently terminating their services is not in dispute for the same being neither controverted in the counter affidavit filed on behalf of the State nor during the hearing of the above writ applications.

10. After having perused the pleadings of the parties and considering the rival submissions, I am of the view that the appointments of the writ petitioners could not have been cancelled in absence of any fraud/misrepresentation attributed on their part, without giving any prior show cause notice/affording opportunity of hearing to the petitioners to submit their reply/ explanation in order to substantiate that they were appointed validly after having fulfilled the requisite qualification for appointment. The same having not been done, the order cancelling their appointments could not be sustained in law. Accordingly, the letter no. 95 dated 21.1.2007, issued by the District Superintendent of

Education, Samastipur, as contained in Annexure-12 to the C.W.J.C. No. 1387 of 2007, whereby and whereunder all the District Education Extension Officers of Samastipur have been directed to cancel the appointment of all Prakhanda/ Panchayat Teachers including the petitioners who have been appointed on the basis of the teachers training certificate of Gandhi Hindi Vidhyapith, Allahabad is, hereby, quashed and consequently, the respective orders cancelling the appointments of the writ petitioners are also quashed.

11. However, the competent authorities will be at liberty to take fresh decision in accordance with law after giving a proper show cause notice to the concerned writ petitioners and upon consideration of the reply, if any, filed in response to the same.

CWJ.C. No-1975 of 2007

12. It has been alleged by the writ petitioner of the above case (C.W.J.C. No. 1975 of 2007) that after they were duly selected for appointment, they have not been appointed allegedly on the ground that they have produced the teachers training certificate from Gandhi Hindi Vidhyapith, Prayag, U.P., as such, they are not eligible as the said institute is not recognised, although they have not been communicated with any such order.

13. In case the appointment of the writ petitioners of the above case (C.W.J.C. No. 1975 of 2007) was denied solely on the ground that they had obtained certificate from the aforesaid institute, the order declining their appointments be communicated to the concerned writ petitioners calling upon them to submit their reply substantiating that the said Gandhi Hindi Vidhyapith is a recognised institution for the purpose of employment as per the aforesaid Statutory Rule. In the result, all the writ applications are disposed of with the above observations and directions.